

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

REV. PATRICK J. MAHONEY, et al.,)

Plaintiffs,)

v.)

Civil Action No. 04-cv-11649-NMG

TOM RIDGE, et al.,)

Defendants.)

**DECLARATION OF DAVID L. HORNING
SPECIAL AGENT, UNITED STATES SECRET SERVICE**

I, David L. Horning, hereby make the following declaration:

1. I am employed as a special agent with the United States Secret Service assigned to the Boston Field Office. Currently, I am serving as the site agent for the Kerry residence on Louisburg Square in Boston. I have been a special agent with the Secret Service since December 17, 2001, and since that time I have provided protection for current and former Presidents as well as foreign heads of state.

2. Pursuant to Title 18, United States Code, section 3056, the Secret Service is charged with protecting the President and the Vice President as well as their immediate families, former Presidents and their spouses, and major candidates for the office of the President and the Vice President. Section 3056 also tasks the Secret Service with providing protection for the spouses of major candidates within 120 days preceding a Presidential election. Both Senator Kerry and his wife, Theresa Heinz Kerry ("Mrs. Kerry"), are currently receiving Secret Service protection under this authority. As site

agent for the Kerry residence, I have been involved in the formulation and implementation of the security plans for the residence.

3. The Kerry residence is at the corner of Louisburg Square and Pinckney Streets, on Beacon Hill, Boston. One side of the house is exposed to Pinckney Street. An aerial photograph of the area is attached as Exhibit 1.

4. The security measures for the Kerry residence have changed over time based on changed circumstances. From July 1 through July 24, 2004, during times when the Kerrys were in Boston, non-resident vehicular traffic was excluded from Louisburg Square and the two blocks of Pinckney Street from Anderson Street to West Cedar Street. In addition, the bags of pedestrians were subject to search. These restrictions were not implemented during much of July because the Kerrys have been away. Beginning Sunday, July 25, 2004, security procedures around the Kerry residence have been enhanced. The tighter restrictions are considered necessary because Mrs. Kerry returned to the residence late Saturday night and because of the increased security concerns raised by the 2004 Democratic National Convention ("DNC"). Senator Kerry is in Boston today and is expected to arrive at his residence on Wednesday.

5. For the period July 25, 2004, through July 30, 2004, Pinckney Street is closed to vehicular and pedestrian traffic from Anderson Street to West Cedar Street. At the intersections of those two streets with Pinckney Street, vehicles and pedestrians are diverted to other streets. In addition, Louisburg Square is also closed to the public. Only residents of Pinckney Street and Louisburg Square, their guests, and commercial vehicles

serving the residences are permitted to enter the area. Demonstrators, tourists, curiosity-seekers, and media who are not residents or guests are not allowed inside the secured area.

6. To implement these restrictions, residents seeking to enter the area on foot are asked to display identification showing their place of residence, unless they are personally recognized by an agent. Guests seeking to enter the area are also asked to display identification, and their hosts are contacted by telephone to confirm the invitation. Commercial vehicles are allowed in the area only after being stopped and providing confirmation that the vehicle is servicing a resident of the area. Beginning Wednesday, July 28, 2004, commercial vehicles will be inspected before being allowed into the area.

7. I am advised that on July 21, 2004, the City of Boston granted four Rally Permits to the Christian Defense Coalition and Operation Rescue for 50 to 200 people for the following dates and times:

- a. Sunday, July 25, 2004, from 10:30 a.m. to 12:30 p.m.
- b. Sunday, July 25, 2004, from 8:30 p.m. to 10:00 p.m.
- c. Monday, July 26, 2004, from 8:30 p.m. to 10:00 p.m.
- d. Tuesday, July 27, 2004, from 8:30 p.m. to 10:00 p.m.

Copies of these permits are attached as Exhibit 2. The permits stated that the rally could take place on "Pinckney Street sidewalk opposite Louisberg [sic] Square, on public sidewalk only, subject to approval from U.S. Secret Service."

8. On the morning of July 23, 2004, a person who identified himself as the Reverend Patrick Mahoney came to the area near the Kerry residence. He told me that he

had obtained permits from the City of Boston to hold a prayer vigil in the Louisburg Square and Pinckney Street area during certain times from July 25 to July 27. I told him that the Secret Service would not allow a prayer vigil to take place at that location. I told him that any street outside of our secured zone will remain open for public access. I also told him that if we allowed one group into the area we would have to allow all groups.

9. I have been provided with copies of four superceding permits issued by the City of Boston, copies of which are attached as Exhibit 3. These permits authorize rallies at the same times, but at a new location, namely, "Pinckney Street, between Charles Street and West Cedar Street, on public sidewalk only, per national security request for U.S. Secret Service."

10. The intersection of Pinckney Street and West Cedar Street, where the rallies are permitted, is one block down the hill from Louisburg Square. The front door of the Kerry residence is plainly visible from that location. Attached as Exhibit 4 is a photograph that accurately depicts the view from the northwest corner of Pinckney Street and West Cedar Street looking up the hill towards Louisburg Square. In the middle of the photograph, immediately to the right of the lower right corner of the "DO NOT ENTER" street sign is a black door of a residence. That is the front door of the Kerry residence. The front of the Kerry residence is also visible from sidewalk vantage points further down Pinckney Street toward Charles Street.

11. On the morning of July 24, 2004, I was informed by a Secret Service agent at the Kerry residence that Reverend Mahoney and roughly 20 to 30 other people arrived

and appeared to be engaging in prayer in front of the house. The agent reported to me that the group was peaceful. Their activity ended without incident and after about 20 minutes they left.

12. In designing and implementing the security plan for the Kerry residence, I have taken into account a number of considerations. An important factor is that the 2004 Democratic National Convention (DNC) is occurring nearby at the Fleet Center from July 26 through July 29. The 2004 DNC has been designated a National Special Security Event pursuant to 18 U.S.C. § 3056(e). See Exhibit 5 (letter dated May 27, 2003, from Tom Ridge to Governor Mitt Romney). The DNC is a potentially attractive target for terrorists or others who would seek to disrupt our democratic system or seek to make a political statement through violent means. The public can reasonably infer that the Kerrys will be in the residence during much of this time and, in fact, Mrs. Kerry returned to the residence late Saturday. Because of the uncertainty of the Kerrys' schedules during the DNC, the security measures must remain in place during the entire week. Also, the national significance of the 2004 DNC, and Senator Kerry's prominent role as the presumptive nominee of the Democratic Party, increases the security concerns surrounding the Kerrys and their residence. The March 2004 bombings in Madrid, which took place on the eve of Spain's national election, remind us of this potential risk. The security concerns of today's post-9/11 world are much greater than they were three years ago.

13. In developing the security plan for the Kerry residence I have considered a variety of potential threats, including but not limited to terrorist attacks, lone gunmen, suicide bombers, fire safety, environmental hazards, chemical/biological attack, medical concerns, and structural safety issues. Pinckney Street is a narrow street. The sidewalk that runs along it is approximately four feet wide, and, accordingly, there is very little distance between the side of the house and the street. This proximity to both the sidewalk and the street does not provide an adequate distance necessary to mitigate the effects of a potential bomb, explosive device or chemical/biological weapon. Adequate distance is particularly important here due to the age and structural vulnerabilities of the homes in the area, including the Kerry residence. A person on Pinckney Street carrying a backpack with a hidden explosive device could inflict extensive damage. Consequently, it is necessary to prohibit the general public from Louisburg Square and Pinckney Street from West Cedar Street to Anderson Street.

14. The presence of groups of protesters, onlookers, and press could provide inadvertent cover for an individual seeking to carry out an attack. Indeed, on July 25, when members of Reverend Mahoney's group came to the intersection of Pinckney Street and Anderson Street, a member of the group advised me that an individual carrying a backpack who was not affiliated with the group was attempting to join in the procession, and that he had been asked to leave and did leave. Also, a crowd of people makes it much more difficult to identify suspicious backpacks or concealed weapons. Also, the presence of significant numbers of people would impede emergency evacuation of the

residence should that be required. Additionally, allowing groups of people near the Kerry residence in and of itself would make the location a more attractive target.

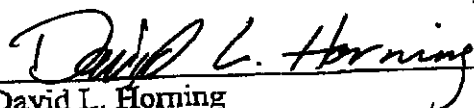
15. Finally, the presence of even small numbers of protesters could attract media attention which, in turn, could enhance the target potential of the site. I am aware that the FBI has publicly released information suggesting that the media has been targeted by individuals intent on doing harm during the DNC. (See, e.g., Boston Globe article, attached as Exhibit 6.) Keeping unscreened media personnel, equipment and vehicles away from the area surrounding the Kerry residence therefore appears prudent.

16. I understand that the Reverend Mahoney's counsel recently asked that one or two women associated with his organization be allowed to come to the front of the Kerry residence to lay a bouquet of flowers. But making case-by-case exceptions to the security plan would be unworkable and would not fully achieve the Secret Service's objectives. Searches of pedestrians on the street may not reveal certain types of dangerous items such as biological or chemical weapons. In addition, it is inappropriate for the Secret Service to allow people into the area based on subjective judgments about their intentions or the message they wish to convey. The security plan for the Kerry

residence does not discriminate on the basis of the content of any message that a person may wish to convey.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Dated: July 26, 2004


David L. Horning
Special Agent
United States Secret Service